



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 19, 1995

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 East 11th Street
Austin, Texas 78701-2483

OR95-1457

Dear Mr. Monroe:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. That request was assigned ID# 34203.

The Texas Department of Transportation (the "department") received a request for "appraisal information and value per square foot for Parcels 190, 191, 193D, and 194." You contend that the requested information is excepted from disclosure under sections 552.103(a) and 552.105.

We note initially that although the requestor asked about Parcels 190, 191, 193D, and 194, a letter from the department to the requestor dated June 6, 1995, indicates that Parcel 192A is somehow at issue in this request. You have not explained how Parcel 192A is related to the information at issue. Information you supplied this office shows that litigation is ongoing as to Parcels 184 and 197, neither of which the requestor asked about. Our review of the documents you supplied this office indicates that they appear to be responsive to the request for information about Parcels 190, 191, 193D, and 194.

Your letter states:

we would direct your attention to Sec. 552.105, which excepts from mandatory disclosure, information as to "appraisals" of real property being purchased by the State. Note, this is the sort of information being sought . . . the documents sought by [the requestor] relate to property which is, or will be, part of the Eastex Freeway Project in Harris County, Texas.

Section 552.105 provides an exception from disclosure for information relating to:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

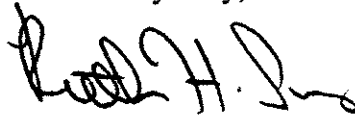
This exception protects a governmental body's planning and negotiating position in regard to particular real or personal property transactions. Open Records Decision No. 357 (1982). In Open Records Decision No. 564 (1990) at 2, this office determined that section 552.105 could also protect information pertaining to the appraisals or purchase price of land adjacent to property for which the government is negotiating. We stated that "[i]nformation about the appraisal of acquired parcels of land could help owners of adjacent or nearby land determine how the department would value their property, and thus strengthen their bargaining position against the state." *Id.*

Once the department has made "a good faith determination that release of an appraisal report of property it has acquired would damage its negotiating position with respect to nearby parcels," this office will accept the department's determination unless other information or the documents at issue show otherwise. *Id.* We assume that the department has, as the requestor states, acquired Parcels 190, 191, 193D, and 194. Although you did not so indicate, we also assume that the department has made a good faith determination that releasing the requested information about those acquired parcels would damage the department's negotiating position with regard to Parcels 184 and 197.

Thus, the information at issue may be withheld from disclosure pursuant to section 552.105. Because it may be withheld pursuant to section 552.105, we do not need to address your argument under section 552.103(a). Please note, however, that the applicability of section 552.105 ends once the property has been acquired and the transaction completed. Open Records Decision No. 310 (1982) at 2. Also, in future requests you should provide more information as to why exceptions are applicable to specific records.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 34203

Enclosures: Submitted documents

cc: Ms. Catherine Harris
2501 Timberline Drive
Austin, Texas 78746
(w/o enclosures)